

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:09CV102-1-MU

MONTAVIUS A. JOHNSON-EL,

Petitioner,

v.

ROY COOPER, et. al.,

Respondents.

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ORDER

THIS MATTER comes before the Court upon Petitioner's Motion for Reconsideration (Doc. No. 22), filed July 13, 2009.

On March 11, 2009, Petitioner filed a federal habeas petition with this Court. On April 2, 2009, Respondent filed a Motion for Summary Judgment. On June 29, 2009, this Court granted Respondent's Motion for Summary Judgment and dismissed Petitioner's federal habeas petition. On July 10, 2009, Petitioner filed a Notice of Appeal. On July 13, 2009, Petitioner filed the instant Motion for Reconsideration.

On October 22, 2009, the United States Court of Appeals for the Fourth Circuit issued an opinion dismissing Petitioner's appeal. In so ruling the Court of Appeals stated that it had independently reviewed the record and concluded that Petitioner had not demonstrated that reasonable jurists would find that any assessment of constitutional or procedural claims by this Court were debatable or wrong. This Court no longer has jurisdiction to rule on Petitioner's Motion to Reconsider. Moreover, if this Court had jurisdiction to rule on his Motion for

Reconsideration, this Court would deny such motion.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Motion for Reconsideration is **DENIED**.

Signed: October 23, 2009

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

